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47053	7590	06/15/2005	EXAMINER	
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC			FLETCHER, JAMES A	
1420 FIFTH AVENUE			ART UNIT	
SUITE 2800			PAPER NUMBER	
SEATTLE, WA 98101-2347			2616	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/919,330

Applicant(s)

SHEEDY, AARON J.

Examiner

James A. Fletcher

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-37 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 4, 6, 8-12, 14-20, 23-29, and 32-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al (United States Patent Application Publication 2003/0149988).

**Regarding claims 1 and 17**, Ellis et al disclose a method comprising:

- receiving programming content from a plurality of broadcasters at a broadcast center (Paragraph 0143 "At the time a selected program or program in a grouping airs [which may be the time at which the program is selected for recording], remote media server 24 or local media server 29 may record the program and any associated program guide data");

- recording at least a portion of the programming content in a storage device (Paragraph 0074 “Programs... may be recorded and played back on-demand by remote media server 24 in response to record and playback requests”);
- in response to a user-specified preference, retrieving at least one piece of programming content from the storage device (Paragraph 0074 “Programs... may be recorded and played back on-demand by remote media server 24 in response to record and playback requests”);
- wherein the at least one piece of programming content has previously been broadcast to a plurality of client terminals at a broadcast time without request from the client terminals (Paragraph 0143 “At the time a selected program or program in a grouping airs [which may be the time at which the program is selected for recording], remote media server 24 or local media server 29 may record the program and any associated program guide data”); and
- transmitting the at least one piece of programming content to a location remote from a recording location at a time different from the broadcast time (Paragraph 0074 “Programs... may be recorded and played back on-demand by remote media server 24 in response to record and playback requests”).

**Regarding claim 4,** Ellis et al disclose a method wherein the location remote from the recording location comprises an originating broadcaster (Paragraph 0013 “The remote media server may be located at a program guide distribution facility or other suitable distribution facility [e.g., a cable system headend, a broadcast distribution

facility, a satellite television distribution facility, or any other suitable type of television distribution facility]").

**Regarding claim 6**, Ellis et al disclose a method wherein the location remote from the recording location comprises an interactive television service (Fig. 2c illustrates an Internet Service System 61 as an element of the Program Guide Distribution Facility 16).

**Regarding claims 8 and 18**, Ellis et al disclose a method wherein the remote location comprises a content provider communicatively coupled to the broadcast center (Paragraph 0069 "If desired, Internet service system 61 may be located at a facility that is separate from program guide distribution facility 16").

**Regarding claim 9**, Ellis et al disclose a method wherein recording at least a portion of the programming content includes converting the programming content into a streaming data format (Paragraph 0077 "Processing circuitry 11 may also include circuitry suitable for decoding program and data files stored on storage 15 and converting them to suitable video signals for distribution by distribution equipment 21" and "distribution to users as an MPEG-2 data stream").

**Regarding claim 10**, Ellis et al disclose a method wherein recording at least a portion of the programming content comprises responding to a record-request from a service provider (Paragraph 0074 "Programs and program guide data may be recorded and played back on-demand by remote media server in response to record and playback requests").

**Regarding claim 11**, Ellis et al disclose a method wherein the service provider comprises a second broadcast center (Paragraph 0013 “The remote media server may be located at a program guide distribution facility or other suitable distribution facility [e.g., a cable system headend, a broadcast distribution facility, a satellite television distribution facility, or any other suitable type of television distribution facility]”).

**Regarding claim 12**, Ellis et al disclose a method wherein the service provider comprises an originating broadcaster (Paragraph 0013 “The remote media server may be located at a program guide distribution facility or other suitable distribution facility [e.g., a cable system headend, a broadcast distribution facility, a satellite television distribution facility, or any other suitable type of television distribution facility]”).

**Regarding claim 14**, Ellis et al disclose a method wherein the location remote from the recording location comprises an interactive television service (Fig. 2c illustrates an Internet Service System 61 as an element of the Program Guide Distribution Facility 16).

**Regarding claim 15**, Ellis et al disclose a method wherein the service provider comprises a content provider communicatively connected to the broadcast center (If desired, Internet service system 61 may be located at a facility that is separate from program guide distribution facility 16.).

**Regarding claim 16**, Ellis et al disclose a method wherein retrieving at least one piece of programming content includes correlating the user-specified preference with stored information, the stored information corresponding to the piece of programming

content to be retrieved (Paragraph 0074 "Programs... may be recorded and played back on-demand by remote media server 24 in response to record and playback requests").

**Regarding claim 19**, Ellis et al disclose a method comprising:

- receiving programming content from a plurality of broadcasters at a broadcast center (Paragraph 0143 "At the time a selected program or program in a grouping airs [which may be the time at which the program is selected for recording], remote media server 24 or local media server 29 may record the program and any associated program guide data");
- converting the programming content into a streaming data format (Paragraph 0077 "Processing circuitry 11 may also include circuitry suitable for decoding program and data files stored on storage 15 and converting them to suitable video signals for distribution by distribution equipment 21" and "distribution to users as an MPEG-2 data stream");
- recording at least a portion of the programming content in a storage device (Paragraph 0074 "Programs... may be recorded and played back on-demand by remote media server 24 in response to record and playback requests");
- in response to a user-specified preference, retrieving at least one piece of programming content from the storage device (Paragraph 0074 "Programs... may be recorded and played back on-demand by remote media server 24 in response to record and playback requests");
- wherein the at least one piece of programming content has previously been broadcast to a plurality of client terminals at broadcast time without request

from the client terminals (Paragraph 0143 "At the time a selected program or program in a grouping airs [which may be the time at which the program is selected for recording], remote media server 24 or local media server 29 may record the program and any associated program guide data"); and

- transmitting the at least one piece of programming content to an interactive television service to allow access to the at least one piece of programming content via a network (Fig 2e shows distribution through the Internet Service System, item 235).

**Regarding claims 20 and 29,** Ellis et al disclose a manufactured broadcast center, comprising a server including:

- a processor (Paragraph 0077 "Remote media server 24 may include processing circuitry 11");
- a storage interface coupled to the processor (paragraph 0077 "Processing circuitry 11 may include...direct memory access [DMA] circuitry");
- a communications interface coupled to the processor configured to receive programming content from a plurality of broadcasters (Paragraph 0084 "Remote media server 24 records programs and associated program guide data on storage 15 in response to record requests"); and
- a memory coupled to the processor to store a plurality of machine instructions (Paragraph 0078 "Memory 13 may be any memory suitable for caching and storing computer code for performing the functions of processing circuitry 11"); and



- a storage device coupled to the server to store the programming content (Paragraph 0079 “Storage 15 may be any storage suitable for recording programming files and associated program guide data”); and
- wherein execution of the machine instructions by the processor caused the server to:
  - receive the programming content from the plurality of broadcasters via a first communications link (Paragraph 0143 “At the time a selected program or program in a grouping airs [which may be the time at which the program is selected for recording], remote media server 24 or local media server 29 may record the program and any associated program guide data”);
  - record at least a portion of the programming content in the storage device at a recording location (Paragraph 0074 “Programs... may be recorded and played back on-demand by remote media server 24 in response to record and playback requests”);
  - retrieve at least one piece of programming content from the storage device in response to user-specified preference (Paragraph 0074 “Programs... may be recorded and played back on-demand by remote media server 24 in response to record and playback requests”);
  - wherein the at least one piece of programming content has previously been broadcast to a plurality of client terminals at a broadcast time without request from the client terminals (Paragraph 0143 “At the time

a selected program or program in a grouping airs [which may be the time at which the program is selected for recording], remote media server 24 or local media server 29 may record the program and any associated program guide data"); and

- o transmit the at least one piece of programming content to a location remote from the recording location (Paragraph 0074 "Programs... may be recorded and played back on-demand by remote media server 24 in response to record and playback requests").

**Regarding claims 23 and 32,** Ellis et al disclose a manufactured broadcast center wherein the remote location comprises at least one of the plurality of broadcasters from which the programming content was received (Paragraph 0013 "The remote media server may be located at a program guide distribution facility or other suitable distribution facility [e.g., a cable system headend, a broadcast distribution facility, a satellite television distribution facility, or any other suitable type of television distribution facility]").

**Regarding claims 24 and 33,** Ellis et al disclose a manufactured broadcast center wherein the remote location comprises a parent network of at least one of the plurality of broadcasters from which the programming content was received (Paragraph 0013 "The remote media server may be located at a program guide distribution facility or other suitable distribution facility [e.g., a cable system headend, a broadcast distribution facility, a satellite television distribution facility, or any other suitable type of television distribution facility]").

**Regarding claims 25 and 34,** Ellis et al disclose a manufactured broadcast center wherein the remote location comprises an interactive television service (If desired, Internet service system 61 may be located at a facility that is separate from program guide distribution facility 16.).

**Regarding claims 26 and 35,** Ellis et al disclose a manufactured broadcast center wherein recording at least a portion of the programming content includes converting the programming content into a streaming data format (Paragraph 0077 "Processing circuitry 11 may also include circuitry suitable for decoding program and data files stored on storage 15 and converting them to suitable video signals for distribution by distribution equipment 21" and "distribution to users as an MPEG-2 data stream").

**Regarding claims 27 and 36,** Ellis et al disclose a manufactured broadcast center wherein recording requests are received via a third communications link (paragraph 0059 "Link 18 may be a satellite link, a telephone network link, a cable or fiber optic link, a microwave link, an Internet link, a combination of such links, or any other suitable communications link.").

**Regarding claims 28 and 37,** Ellis et al disclose a manufactured broadcast center wherein retrieving at least one piece of programming content includes correlating the user-specified preferences with stored information corresponding to the piece of programming content to be retrieved (Fig 14e illustrates a screen indicating the storage of user preference data regarding recording of a program series.)

**Regarding claim 38,** Ellis et al disclose a method comprising:

- receiving programming content from a plurality of broadcasters at a broadcast center via a communications link (Paragraph 0143 “At the time a selected program or program in a grouping airs [which may be the time at which the program is selected for recording], remote media server 24 or local media server 29 may record the program and any associated program guide data”);
- recording at least a portion of the programming content in a storage device (Paragraph 0074 “Programs... may be recorded and played back on-demand by remote media server 24 in response to record and playback requests”);
- broadcasting the programming content as an original broadcast to a plurality of client terminals at a broadcast time (Paragraph 0143 “At the time a selected program or program in a grouping airs [which may be the time at which the program is selected for recording], remote media server 24 or local media server 29 may record the program and any associated program guide data”);
- receiving a request for at least one piece of programming content from at least one service provider via the communications link (Paragraph 0074 “Programs... may be recorded and played back on-demand by remote media server 24 in response to record and playback requests”), wherein the at least one piece of programming content comprises programming content included in the original broadcast (Paragraph 0143 “At the time a selected program or program in a grouping airs [which may be the time at which the program is

selected for recording], remote media server 24 or local media server 29 may record the program and any associated program guide data”);

- retrieving the at least one piece of programming content from the storage device (Paragraph 0074 “Programs...may be recorded and played back on-demand by remote media server 24 in response to record and playback requests”);
- transmitting the at least one piece of programming content to at least one service provider at a time different from the broadcast time (Paragraph 0074 “Programs...may be recorded and played back on-demand by remote media server 24 in response to record and playback requests”).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al.

**Regarding claim 7**, Ellis et al do not disclose a method wherein the interactive television service is maintained in a common facility with the recording location.

The examiner takes official notice that a close geographic proximity among various elements of a networked system is notoriously well known and widely used aspect of a local area network, and does not represent a patently distinct feature.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ellis et al to include elements that are within a common facility.

**Regarding claims 5 and 13,** Ellis et al suggest a method wherein the location remote from the recording location comprises a variety of locations (Paragraph 0013 “The remote media server may be located at a program guide distribution facility or other suitable distribution facility [e.g., a cable system headend, a broadcast distribution facility, a satellite television distribution facility, or any other suitable type of television distribution facility]”), but do not specifically disclose the location being a parent network.

The examiner takes official notice that parent networks are well known, commercially available networks, particularly in large enterprise situations such as those described in the instant invention and in the reference, providing the operators with a way to prevent the size of the network from becoming unwieldy and unreliable.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ellis et al to include the possibility of the recording location being at a parent network.

6. Claims 2-3, 21-22, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al and in further view of Heller (“VPS a new System for domestic VCR start/stop by programme labels transmitted within the insertion data line”)

**Regarding claims 2-3, 21-22, and 30-31,** Ellis et al do not disclose a method comprising detecting information triggers in the signal to determine if recording should occur.

Heller teaches a method of detecting information that accompanies the programming content to determine whether to record the portion of the programming content by way of triggering data (Page 346, lines 7-12 "To avoid malfunction of this kind the domestic VCR should not react to its built-in timer but directly to the presence of the programme item that the user has preselected for recording. For this to be possible each programme item has to be identified by an invisibly coded label information, which can be 'attached' to the programme video signal within its vertical blanking interval").

As taught by Heller, having program identification data in the video signal allows a recording operation to take place that accurately stores the desired program.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ellis to detect program information to determine if recording should occur.

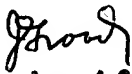
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Fletcher whose telephone number is (571) 272-7377. The examiner can normally be reached on 7:45-5:45 M-Th, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAF  
10 June 2005

  
James J. Groody  
Supervisory Patent Examiner  
Art Unit ~~262~~ 2616